



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

Mr I Sen

v

United Colleges Group

## RECONSIDERATION JUDGMENT

The claimant's application dated 12 July 2018 for reconsideration of the judgment sent to the parties on 28 June 2018 is refused.

## REASONS

1. On 21, 22, 23 and 24 May 2018 a substantive hearing took place before Employment Judge Tuck, Ms Harris and Mr Bean. We determined that the claimant had not been unfairly dismissed, or automatically unfairly dismissed, or dismissed on grounds related to Trade Union activities, and that he had not been victimised or wrongfully dismissed. Full reasons were given at the time and written reasons for the decision were provided on 28 June 2018.
2. By rules 70-73 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 parties may apply for reconsideration of judgments made by a Tribunal. The sole ground on which a judgment may be reconsidered is that it is necessary in the interests of justice to reconsider it.
3. Rule 71 provides that an application must be sent within 14 days of the date on which the decision was sent out to the parties. The application must be in writing and must set out why reconsideration of the original decision is necessary. The application must therefore be received within the relevant time limit.
4. By rule 72(1) the application to have a decision reviewed shall be considered where practicable by the Employment Judge who made the decision or chaired the Tribunal which made the decision. The Judge shall

refuse the application if she considers that there is no reasonable prospect of her decision being varied or revoked.

5. The grounds relied upon by the claimant are in summary that the Tribunal made mistakes in its findings of fact and in reaching its conclusion that the claimant had not been victimised.
6. The matters raised by the claimant were considered in light of all the evidence presented at this Tribunal before we reached our judgment. This is not an instance of fresh evidence which had come to light since the hearing, or of matters which were overlooked and not taken into consideration. Our reasons for concluding that the respondent had not acted as it had because of the protected acts are set out unequivocally in the findings having taken account of all the evidence that was before us. We concluded that whilst there were protected acts, and whilst there were detriments the necessary causative link had not been made out.
7. The Employment Appeal Tribunal in Trimble v Super Travel Limited [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be remedied on appeal not by way of review, or now called reconsideration. In addition, in Fforde v Black 68/80 the EAT decided that the interest of justice ground of review does not mean that “in every case where a litigant is unsuccessful he is automatically entitled to have the Tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving the denial of natural justice or something of that order.”

This is not the case here.

8. In addition, it is in the public interest that there should be finality in litigation and the interest of justice apply to both sides.
9. The fact that the decision went against the claimant, and that he was unsuccessful in persuading us that his employer had committed acts of victimisation is no basis for reconsideration of our decision. It is of note that the claimant does not refer to any fresh evidence which was unavailable at the time of the hearing, rather he refers to the findings of fact that we have made on the basis of the evidence before us and asks us to draw different conclusions from that same evidence. The basis of the conclusions that we have drawn are set out clearly in our judgment.
10. I have therefore decided to reject this application for reconsideration. I do so because there is no reasonable prospect of the judgment being varied or revoked.

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Employment Judge Tuck

Date: .....

Sent to the parties on: ..06.09.18.....

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For the Tribunal Office